

REMARKS

Claims 23-26 are all the claims pending in the Application, claims 1-22 having been previously cancelled, and claims 27-33 have been canceled without prejudice or disclaimer in the present amendment.

As a preliminary matter, Applicant notes that the Price patent (5,339,925) was relied upon in the present Action, but was not listed in the Notice of References Cited. The Examiner acknowledged this omission in the March 22, 2005, telephone conversation with Applicant's representative, Jeffrey Lotspeich. The Examiner indicated that the Price patent would be made of record in a Supplemental Notice of References Cited, and such action is respectfully requested.

The drawings have been objected to as not showing every feature of the invention as recited in the claims. The claims that recite the features referred to in the Action, claims 27-33, have been cancelled thereby rendering moot the objection to the drawings.

Claims 26-31 and 33 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 23, 29, and 32 stand rejected under 35 U.S.C. §102(b) as being anticipated by White (U.S. patent 1,884,447). Claim 23 stands rejected under 35 U.S.C. §102(b) as being anticipated by Hulsart (U.S. patent 2,661,816). Claims 23-25 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Price (U.S. patent 5,339,925). Applicant respectfully traverses these rejections, and requests reconsideration and allowance of the pending claims in view of the following arguments.

Rejection Under
35 U.S.C. §112, second paragraph

Claims 26-31 and 33 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 27-31 and 33 have been canceled in present amendment, rendering the rejection to these claims moot.

With regard to claim 26, the “drum” recited in this claim is one possible embodiment of a “rotating member.” The specification provides further types of “rotating members” including, for example, a chain wheel or a cable wheel (Specification at page 8, para. [0024]). Accordingly, the “drum” recited in claim 26 further defines that which is recited in claim 23. Applicant submits that claim 26 is indeed definite, and respectfully requests that the rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

Rejection Under 35 U.S.C. §102(b)
as being Anticipated by White

The Examiner rejects claims 23, 29, and 32 under 35 U.S.C. §102(b) as being anticipated by White.

Independent claim 23 is directed to an underfloor lifting platform and recites “at least one vertical beam liftable and lowerable in a pit.” This claims also requires “at least one support arm comprising supports fixed to said vertical beam.” On page 3 of the Office Action, the Examiner asserts that support 18 of the White patent teaches these claim limitations. Applicant respectfully disagrees.

Applicant’s review of the White patent, and in particular FIGS. 2 and 6, which show barriers in the form of a pair of vertically projecting columns 15, 16. The “plunger-like columns 15, 16 may

be made of many different shapes and designs, they are here shown as being fabricated of pairs of connected channel beams 17 suitably secured together at their upper and lower ends by end plates 18 and 19” (White at page 1, lines 80-87). The whole purpose of end plate 18 is to secure channel beams 17 together. End plate 18 is not a support arm, nor does it comprise supports. Accordingly, end plate 18 of the White patent does not teach or suggest “at least one support arm comprising supports fixed to said vertical beam,” as recited by independent claim 23.

Rejection Under 35 U.S.C. §102(b)
as being Anticipated by Hulsart

Claim 23 stands rejected under 35 U.S.C. §102(b) as being anticipated by Hulsart. On page 3 of the Office Action, the Examiner asserts that support 5 of the Hulsart patent teaches the claim 23 limitation of “at least one support arm comprising supports fixed to said vertical beam.” Applicant submits that this claim is distinguishable from the apparatus of Hulsart for reasons similar to that presented above.

Applicant first notes that FIG. 1 of the Hulsart patent, and the accompanying specification, states that “load-supporting platform 5 is mounted upon the upper end of the piston 4 within the pit P, and is adapted to support a load of selected materials, not shown” (Hulsart at col. 2, lines 21-25). Hulsart lacks any teaching relating to the use of a “support arm.” Applicant assumes, *arguendo*, that platform 5 of Hulsart teaches Applicant’s claim 23 “supports” limitation. Even if this were true, Hulsart does not teach or suggest at least one support arm comprising platform 5. Simply put, Hulsart does not have at least one support arm. Accordingly, Hulsart does not teach or suggest “at least one support arm comprising supports fixed to said vertical beam,” as recited by claim 23.

Rejection Under 35 U.S.C. §102(b)
as being Unpatentable over Price

Claims 23-25 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Price. Claim 23 recites “a rotating member rotatably driven by said prime mover.” The Examiner indicated on page 4 of the Action that rotating member 83 of the Price patent teaches this claim limitation.

The Price patent is directed to a hydraulic lift in which “primary pulley 83 is affixed to the top end of lifting cylinder 30 by bracket 33. Rotatably about a horizontal axis, primary pulley 83 rises with lifting cylinder 30” (Price at col. 4, lines 23-25). The hydraulic lift of Price “uses a hydraulically driven high pressure lifting cylinder 30 to lift pistons 20, wherein the lifting cylinder 30 is contained within cylinder sleeve 32” (Price at col. 3, lines 35-38). During operation, “chain 50 follows along a path from the upper section 12 to secondary pulley 85, to primary pulley 83, to lower chain anchor 54. As lifting cylinder [30] *is vertically raised*, chain 50 travels along the lower gear portion of secondary pulley 85 and the upper portion of the primary pulley 83 to pull and lift the equalizer beam [22] and pistons [20] in unison” (Price at col. 4, lines 43-49) (*emphasis added*).

It is important to note that lifting cylinder 30 is the component which directly interfaces with pulley 83. For the sake of argument, Applicant will assume that lifting cylinder 30 teaches Applicant’s “prime mover” and that primary pulley 83 teaches Applicant’s “rotating member.” Even if this were true, Price would only describe, at best, a system in which a rotating member (pulley 83) *is lifted by* a primer mover (cylinder 30). This is not what is recited in claim 23. To reiterate, claim 23 requires “a rotating member *rotatably driven* by said prime mover.” Hydraulic cylinders, such as cylinder 30, provide a linear driving force, not a rotating driving force. Price therefore does not teach or suggest the just-identified “rotatably driven” aspect of claim 23.

To summarize, Applicant has demonstrated that White, Hulsart, and Price fail to teach or suggest various features recited in independent claim 23, and therefore this claim is believed to be patentable.

Applicant notes with appreciation that claims 26-28 and 33 would be allowable if rewritten to include all of the limitations of the base claim and to overcome the rejection under 35 U.S.C. § 112, second paragraph. However, with regard to claim 26, Applicant respectfully declines this offer in view of the arguments presented herein.

Applicant has reviewed the cited but not applied patents to Thompson (2,349,389), Ganser (5,018,925), and Pritz (2,250,965). They are interesting and appear to be generally related technology, but there is nothing of sufficient relevance to require detailed discussion.

CONCLUSION

Applicant believes that the Examiner's rejections have been overcome and submits that the subject application is in condition for allowance. Should any issues remain unresolved, Examiner Tran is invited to telephone the undersigned attorney.

Respectfully submitted,

WINFRIED RAUCH



By: Jeffrey J. Lotspeich
Attorney for Applicant
Registration No. 45,737

Dated: July 7, 2005

THE MAXHAM FIRM
750 'B' STREET, SUITE 3100
SAN DIEGO, CALIFORNIA 92101
TELEPHONE: (619) 233-9004
FACSIMILE: (619) 544-1246